

# Committee on Resources

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## Witness Testimony

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THE RHINO AND TIGER PRODUCT LABELING ACT (H.R. 2807)  
and THE RE-AUTHORIZATION OF THE RHINOCEROS AND TIGER CONSERVATION ACT (H.R.  
3113)

TESTIMONY before the SUBCOMMITTEE ON FISHERIES CONSERVATION, WILDLIFE and  
OCEANS of the COMMITTEE ON RESOURCES of the  
U.S. HOUSE OF REPRESENTATIVES

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February 5, 1998

I would like to thank the members of the Subcommittee on Fisheries Conservation, Wildlife and Oceans for the opportunity to participate in this hearing to discuss the urgent need for the Rhino and Tiger Product Labeling Act (H.R. 2807) and to support the re-authorization of the Rhinoceros and Tiger Conservation Act (H.R. 3113). On behalf of the Wildlife Conservation Society (WCS), I would like to convey our strong support for these bills and emphasize the importance of passing the Rhino and Tiger Product Labeling Act. I have testified before this Subcommittee and its predecessor both in 1994 and 1996 in support of the Rhinoceros and Tiger Conservation Act and the fund it would establish. Today, I will focus my testimony on key findings of our 1996 market survey of the presence of tiger-based traditional Chinese medicine (TCM) products in New York City and the need for the Rhino and Tiger Product Labeling Act.

WCS has been dedicated to understanding and protecting wildlife and ecosystems since it was founded in 1895 as the New York Zoological Society. WCS scientists have greatly expanded our knowledge of species and habitats through pioneering, long-term field studies; have effectively promoted the cause of conservation through their direct role in establishing more than 100 national parks and reserves, have trained innumerable conservationists and wildlife managers in developing countries; have helped to nurture the institutions in which the latter must work; and have contributed key ideas to the ongoing debates about natural resource management and conservation.

WCS, headquartered at the world-renowned Bronx Zoo, is presently pursuing its mission through more than 250 field projects in over 50 countries in Latin America, Africa, Asia, and in North America; environmental education programs reaching schools in 47 states and overseas; endangered species propagation in New York and Georgia; clinical and research programs in wildlife health sciences; and five public wildlife conservation centers in the Bronx, Brooklyn, Manhattan, and Queens, including the Aquarium for Wildlife Conservation.

WCS has been dedicated to protecting tigers in the wild since the 1960s when Dr. George Schaller, WCS Director for Science, completed the first scientific study of tigers in Kanha National Park, India. In 1995 we launched The WCS Tiger Campaign to mobilize field research and conservation initiatives in countries where tigers remain including India, Myanmar, Lao People's Democratic Republic (PDR), Cambodia, Malaysia, Indonesia, Thailand, and, the Russian Far East. While much of our work focuses on conserving tigers in the wild in these countries, it is also complemented with public awareness and educational campaigns, particularly in China, to reduce the demand for tiger bones and tiger-based products that has

fueled widespread poaching and illegal hunting throughout much of the tiger's remaining range.

Finally, our commitment to saving the tiger includes our participation in captive breeding programs and educational programs administered at the Bronx Zoo. Please see Appendix I for more detail on the WCS Tiger Campaign.

WCS has been working to protect rhinos in the wild since 1928 when it supported work by the Wild Life Protection Society of South Africa to create Kruger National Park. WCS efforts have involved purchases of vital rhino habitat for protected areas, ecological and behavioral studies, captive-breeding, genetic studies to address the validity of subspecies for conservation purposes, assessments of the range and status of rhinos, translocation of rhinos in Africa to reestablish populations, the establishment of protected sanctuaries in Kenya, and the funding of anti-poaching efforts in Africa.

## **I. The Rhinoceros and Tiger Conservation Fund: Re-authorize and fully finance it at \$10 million annually.**

In 1994 and 1996 I testified on behalf of WCS in favor of the Rhinoceros and Tiger Conservation Fund (RTCF) and the need to allocate the full \$10 million for this fund. In many of the African and Asian countries where the tiger and rhinos occur, financial resources are scarce. Thus, the RTCF offers funds that would otherwise simply not exist for specific efforts to conserve these species. We strongly support the re-authorization of the RTCF that would extend the fund to September 2004, and we believe that the allocation of funds to the RTCF should be the full \$10 million annually.

In both my previous testimonies I also provided information on the status of and threats to the tiger and all five species of rhinoceros and our perspective on the immediate efforts that are needed to conserve these species in wild. A key component of the WCS Tiger Campaign was to assess past conservation efforts, assess the current threats, and develop a conservation strategy for protecting the tiger in the wild. Our assessment and approach were presented in [Saving the Tiger: A Conservation Strategy](#), a WCS Policy Report (Norchi and Bolze 1995). WCS then built upon this effort in a collaboration with the World Wildlife Fund-US to develop a priority-setting framework to identify the most important tiger populations based on ecological criteria (Dinerstein et al. 1997). This study also highlighted the need to focus on controlling the illegal trade in tiger parts and reduce demand for tiger-based products, especially for use in TCM (Hemley and Bolze 1997). Both of these reports have been provided to the United States Fish and Wildlife Service (FWS) to guide their funding support from the RTCF.

## **II. The Rhino and Tiger Product Labeling Act: Passage is urgently needed.**

In June 1996, during the 104<sup>th</sup> Congress, Senator Jeffords introduced the precursor of the Rhino and Tiger Product Labeling Act (H.R. 2807) that we are discussing today. At that time, this Subcommittee held a hearing on the merit of the RTCF during which I strongly urged the Subcommittee to secure the passage of that precursor bill. In that testimony, I highlighted that several preliminary market surveys were indicating that the United States and other Western nations were important markets for illegal tiger and rhino-based TCM products. Until that time, almost all of the attention with regard to reducing the threat from poaching of tigers and rhinos for the use of their parts in TCM had been appropriately aimed at the major East Asian consumer nations

WCS commended the United States and the Department of Interior (DOI) for taking a lead role in pressuring the consumer nations, particularly China, Taiwan, South Korea, and Hong Kong, to significantly improve their efforts to control the illegal trade in tiger and rhino parts and products. We were supportive of the use of the Pelly Amendment to the Fisherman's Protective Act against China and Taiwan by the Secretary of Interior. This led to a year-long import embargo by the United States from mid-1994 to 1995 on wildlife products from Taiwan for continuing to undermine the effectiveness of the international prohibition on trade in tiger and rhino parts under CITES (Convention on International Trade in Endangered

Species of Fauna and Flora). But, we have also urged the DOI all along not to overlook the very same problems in its own backyard.

**THE PROBLEM: Western countries, especially the United States, are important markets for illegal tiger and rhino-based TCM products.**

TCM is a holistic approach to curing illness and maintaining health. It focuses on rest, exercise, and the consumption of plant, animal and mineral substances, or *materia medica*, as foods and medicines. Herbalism, as an approach in TCM, is a centuries old tradition based on the use of these ingredients, some of which include endangered species like the tiger and rhinos. Tiger bone and rhino horn, the most valued of the many parts of these species that are used, are prescribed by TCM practitioners and are also listed as ingredients in a variety of manufactured or "patented" TCM products. With the relatively large Asian communities in the West and the growing interest among Westerners in TCM herbalism, tiger and rhino-based TCM products have become widely distributed outside Asia, including in Europe, Canada, and the United States. This is despite the fact that international trade in any tiger or rhino product is prohibited by CITES.

It is important to determine the extent and nature of the market for tiger and rhino-based TCM products to guide efforts to reduce demand and control illegal trade in Western countries. Reports of two market surveys were released on January 22, 1998, at a joint press conference by WCS and World Wildlife Fund on behalf of TRAFFIC-North America. The major finding of both surveys is that tiger and rhino-based TCM products are widely available throughout the major Asian communities in the United States.

WCS conducted an in-depth, six month market study of the demand for tiger-based TCM products in New York City, both the location of the second largest Chinese community in the United States, after Los Angeles, and the headquarters of WCS. From June through December 1996, repeated visits to 37 Asian herbal shops, pharmacies and supermarkets established that 24, or 67% of them, carried at least one tiger-based TCM product (Bolze et al. 1998). Sixteen different products in the form of pills, plasters and capsules were easily purchased. These products claimed to treat rheumatism and a variety of ailments of the bones, muscles, and joints. Products ranged from \$2 to \$8 in price, with one product selling for \$50. Raw tiger bone or any other bone that was labeled as tiger was not observed for sale nor did any of the TCM practitioners approached offer to fill a prescription that called for tiger bone as an ingredient.

TRAFFIC-North America conducted a survey during 1996-1997 in five cities in the United States and two in Canada and found that 50% of the stores visited contained at least one tiger, rhino or leopard-based TCM product (Gaski 1998). In New York City, 83% of the stores contained at least one tiger or rhino-based TCM product, the highest percentage availability of all seven cities. A total of 31 different products that contained or claimed to contain tiger or rhino were readily available for sale. Both of these market surveys underscore that the United States is an important market for these illegal products. This is corroborated by reviews of the annual country reports to CITES which indicate that the United States is a major importer of tiger and rhino-based TCM products (Mulliken and Haywood 1994, Mills and Jackson 1994).

While a variety of tiger and rhino-based TCM products are widely available in the United States, these same products are not readily available in China where almost all of these products were manufactured. TRAFFIC-East Asia conducted a three-year market survey of seven cities in China. In 1996, of the 255 stores visited, only one store displayed a tiger bone wine or plaster product and merely 3% had them upon request (Mills 1997). Fourteen percent of all the stores visited displayed other types of tiger or rhino-based TCM products. Only 11 different tiger or rhino products were found in the stores in China compared to 31 in the United States Asian herbal stores, pharmacies and supermarkets. Also Mills (1997) saw no tiger bone on display or available upon request from 1994-1996 in contrast to findings from surveys conducted in 1992.

It is ironic that illegal tiger and rhino-based TCM products are widely available in the United States when

these products are illegal and difficult to obtain in China. It is more ironic that this is a result of the United States certification of China under the Pelly amendment for its continued violations of CITES prohibitions on trade in tiger and rhinos. China responded to international concerns and pressure from CITES by instigating law enforcement efforts and legislative action to control the illegal trade. In 1993, China banned the domestic trade in tiger and rhino parts and products, prohibited manufacture and export of tiger and rhino products, and removed the species from the official pharmacopeia of the *materia medica* in China. This ban includes any claims to contain these species as ingredients in products. The issuance of this prohibition and subsequent law enforcement efforts are the primary reasons that tiger and rhino-based TCM products are not currently on display in China (Mills 1997). Clearly, the United States needs to follow suit.

**RECOMMENDATION 1: The United States needs to make law enforcement on the illegal trade in tiger and rhino-based TCM products a top priority.**

To its credit, DOI and the United States Customs Service made the illegal trade in tiger and rhino-based TCM products a priority in Los Angeles by forming a multi-agency law enforcement effort in 1994, called the Wildlife Task Force. The inspectors and agents from the Customs Service, FWS, the Food and Drug Administration (FDA), and the Department of Agriculture meet regularly and have coordinated specific efforts including thoroughly inspecting all international cargo shipments, passenger flights from East Asian countries, and international mail (Gaski 1998). As a result, the presence of these products on the shelves plummeted in Los Angeles, according to the TRAFFIC-North America market survey. In the largest Chinese community in the United States, the survey found only one shop out of 17 displaying a tiger or rhino-based TCM product (Gaski 1998).

The absence of tiger and rhino-based TCM products in the Asian herbal stores in Los Angeles demonstrates the effectiveness of law enforcement when this problem is made a priority. Unfortunately, as far as we know, there has been no such effort in any other city with a large Chinese community. With the successful Los Angeles law enforcement effort as a model, it is inexcusable that illegal tiger and rhino-based TCM products are openly sold in this country and that there has been little or no effort by federal and state authorities to stop it outside of Los Angeles, though the FWS has been aware of the problem for several years.

In our discussions with the FWS based in the New York region and the New York State Department of Environmental Conservation (DEC), the main effort to control the illegal trade in these products in New York is through the confiscation of any tiger or rhino-based products at the point of importation. To date, the DEC, which has the authority to seize products at the point of sale, has done nothing. This inaction is the result of the DEC's concern that seized products could not be proven to actually contain the prohibited tiger or rhino ingredients as labeled. Such proof is necessary under both the federal Endangered Species Act (ESA) and New York State law since neither makes it expressly illegal to claim to contain tiger or rhino derivatives. Not only is forensic analysis costly, but current forensic tests cannot verify if some of the TCM products were actually made with tiger or rhino parts (Espinoza et al. 1994, E. Espinoza personal communication). With limited staff, money and time, many tiger and rhino-based TCM products are escaping detection at import and are openly for sale in New York City in direct contradiction to the CITES prohibition.

**RECOMMENDATION 2: Congress needs to make passage of the Rhino and Tiger Product Labeling Act a top priority.**

As alluded to above, a complicating factor in the trade in tiger and rhino-based TCM products is that many of them do not actually contain real tiger bone or rhino horn at all. Forensic testing conducted at the FWS National Forensics Lab in Ashland, Oregon, found no presence of rhino horn or of hydroxyapatite, a mineral signature for bone, in various tiger-based TCM products seized on importation into the United States (Espinoza et al. 1994). A further complication is that some processing methods used to produce tiger and rhino-based TCM products destroy the traces of minerals and proteins needed for forensic analysis.

Therefore, without extensive testing and investigative research, it is difficult to "prove" that a TCM product actually contains tiger or rhino ingredients.

The problem of verifying the presence or use of tiger or rhino parts in TCM products has hamstrung law enforcement, at least in New York state, where under existing federal and state law only products that actually contain tiger or rhino derivatives are in violation. The claim to contain tiger or rhino is not in and of itself a violation of the ESA or the New York state Environmental Conservation Law, the two primary laws that apply to tiger and rhino-based TCM products found in New York City.

The Rhino and Tiger Product Labeling Act (H.R. 2807) would address this inadequacy at the federal level by making products that claim to contain tiger or rhino expressly illegal to import, export and sell. The passage of this bill would bring the United States into accord with CITES which prohibits international trade in any product that states it contains tiger, rhinoceros, or any other species listed on Appendix I of the treaty. In 1994, at the Conference of the Parties, CITES called on all signatory nations to pass domestic legislation that makes it expressly illegal for products to make claims to contain tiger or rhino (COP resolutions 9.13 and 10.19). The language in H.R. 2807 would make it a violation to claim to contain tiger or rhino, regardless of the claim's veracity. Thus, this bill would remove the burden to prove a product actually contains tiger or rhino, because there would now be a legal presumption that the claim is true and violates the law.

The passage of this bill will facilitate law enforcement at the point of sale. Nonetheless, there is still an important need to develop forensic techniques that can verify if tiger or rhino parts are contained in or used in the manufacture of TCM products. Undoubtedly, products will continue to be produced using tiger and rhino ingredients, but simply not labeled as such. It will be important for law enforcement efforts to be able to identify these authentic TCM products that are not stating the contents truthfully.

While we are very supportive of this piece of legislation, we would like to recommend that the Subcommittee consider broadening the concept of the bill to apply to all species listed on Appendix I of CITES and to all species listed as endangered under the ESA. It is obvious that products should not be allowed to claim to contain species whose trade or use in any way is strictly prohibited even if the claim is false. Even though this legislation only applies to tiger or rhino products, these products comprise much of the illegal market. Also, for some of the other prohibited or regulated species used in TCM products, there are reliable forensic tests. But, it would seem most appropriate to reduce the cost and burden to federal and state law enforcement efforts by broadening the scope of this bill beyond tigers and rhinos to make all products claiming to contain species listed on Appendix I of CITES and listed as endangered under the ESA expressly illegal.

**RECOMMENDATION 3: Remove tiger and rhino-based TCM products from the shelves. New York City should be a top priority for this effort.**

The successful effort of the Los Angeles Wildlife Task Force demonstrates that there is no need to wait for the passage of the Rhino and Tiger Conservation Act before taking action to control the illegal importation and domestic trade in tiger and rhino-based TCM products. WCS strongly believes that the DOI needs to make it a priority to remove these products from the shelves now, especially in New York City. Regardless of whether tiger and rhino-based TCM products do or do not contain these species, they maintain the demand for authentic tiger ingredients in TCM prescriptions and manufactured products.

Not only do these tiger and rhino-based TCM products violate endangered species protection laws at the international, federal and state level, these products are also potentially violating current federal food and drug laws and product labeling laws. The DOI needs to work with the FDA to explore these legal options for removing these products from the shelves, and the FDA needs to make this issue a priority. For example, when TCM products make claims with respect to curing, diagnosing, preventing, mitigating, or treating a disease or symptom, they are potentially violating the Federal Food, Drug, and Cosmetic Act if

the product has not been approved to make such claims. The law defines such a product as a drug and as such is subject to stringent testing before the manufacturer can legally make such claims. It is possible that the indications and actions described on inserts and packages of many of the tiger-based TCM products meet these criteria with such claims of treating rheumatism, arthritis, and other ailments. However, potential violations of this law seem to be a low priority with the FDA. Additionally, the potential health risks associated with some of these products have received little attention from the FDA. Detection of toxic metals such as arsenic and mercury during testing for the presence of endangered species in rhino-based TCM products should be a cause for concern with the agency (Espinoza et al. 1994, 1995, 1996).

Another legal option under the FDA's jurisdiction is the fair Packaging and Labeling Act which prohibits the use of a label on a product that purports to contain an ingredient when the product does not. The FDA has been criticized for failing to apply this law to TCM products that falsely claim to contain tiger or rhino. The agency has shown little interest in pursuing this legal avenue despite results from forensics testing that some of these products do not contain tiger or rhino even though they are labeled as such.

**RECOMMENDATION 4: The DOI should support and collaborate with targeted public awareness efforts in major Asian communities to reduce demand for tiger and rhino-based TCM products.**

Though the first three recommendations have focused on the need to control the illegal trade, the resolution of the illegal trade in tiger and rhino-based TCM products is to ultimately reduce demand. The effort to reduce demand requires using social marketing which is the application of commercial marketing techniques to social causes. Social marketing involves determining the specific target groups, developing the message and delivery technique for each group, and assessing if attitudes and behavior have changed as a result. The goal of a strategic public awareness campaign in the Asian communities in the United States would be to raise support for the removal of tiger and rhino-based TCM products from the shelves and to reduce demand for authentic tiger and rhino ingredients in TCM.

Based on our pilot project, it is clear that a strategic public awareness effort is needed in New York City's Chinese communities (Bolze et al. 1998). We found that the Chinese community, not unlike the broader American public, is generally ignorant of the threats facing the tiger in the wild and unaware that the purchase of tiger and rhino-based TCM products is directly threatening these species in the wild. Sixty-five eight to ten-year-old students, attending a Chinese community public school, knew little about the biology or the threats facing the tiger. Sixty-four percent thought that tigers were found in Africa, a similar finding to other surveys (Bolze et al. 1998). Encouragingly, the pilot outreach effort in the form of a 35 minute presentation using slides and video was effective in improving the students' knowledge and making the link between the threat to the tiger and the use of tiger parts in TCM. Students also demonstrated a strong interest in taking specific actions to address this problem such as informing others to avoid using tiger-based TCM products.

Based on informal interviews with many sectors of the Asian community, we found a strong interest from Chinese community groups and schools in participating in public awareness efforts. We also identified several TCM store owners and practitioners that did not support the use of endangered species in TCM and who were interested in conserving wildlife. Our overall perspective is that various sectors of the Chinese community are concerned about conserving wildlife and are willing to modify their behavior by avoiding the use of tiger and rhino-based TCM products.

The FWS has already demonstrated that it supports the need for public awareness efforts in its work in Los Angeles. The agency complemented the Wildlife Task Force law enforcement effort with radio spots aired in the Asian languages appropriate for Los Angeles and collaborated in the development of educational curriculum materials on TCM with TRAFFIC-North America, the Los Angeles Zoo, WWF, and the Los Angeles Unified School District (Gaski 1998).

### III. Conclusions

- The removal of tiger and rhino-based TCM products from the shelves must be a top priority for the DOI and New York City should be a focal area. DOI needs to collaborate with other federal and state agencies to explore and apply the range of legal options that would best achieve this goal.
- The DOI needs to increase its port inspection efforts, develop reliable forensic tests to verify the presence of endangered species ingredients in TCM products, and support public outreach efforts in the Asian communities. These needs will require additional financial resources which **should not** come from the RTCF. Such additional financial needs should be added to the DOI's budget and not taken from its other valuable programs.
- The House Resources Committee needs to make it a top priority to get the Rhino and Tiger Product Labeling Act passed as soon as possible. This bill offers a valuable tool to expedite law enforcement efforts to reduce the trade in illegal tiger and rhino-based TCM products.

The increasing growth in Western consumer interest in Eastern medicinal philosophy, including herbal TCM, is fueling demand beyond that generated by the Asian communities in Western countries. Numerous books and articles have been published in English by Asian and non-Asian authors on the herbal practice of TCM, although some are including less about the use of animal ingredients and offering substitutes (Bolze et al. 1998). Much of the Western interest in herbal TCM is based on assumptions that TCM herbal products for sale are both legal and safe even though these products are mostly unregulated by most Western nations' food and drug safety laws. With a clear lack of awareness among the Asian and Western public that the tiger or rhinos are threatened by poaching for use in TCM, the presence of TCM products on the shelves purporting to contain tiger and rhino ingredients falsely implies that the purchase of these products does not threaten the species. It is imperative to crack down on the illegal importation and sale of these tiger and rhino-based TCM products and publicize the fact that the purchase of these products poses a serious threat to tigers and rhinos in the wild.

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